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CAMERON G. BURKE
CLERK IDAHO

Attorneys for Plaintiff/Counterdefendant Recuperos, LLC

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO

RECUPEROS, LLC, an Idaho limited liability
company,

Plaintiff,

vs.

AMERICAN FOOD STORES, LLC, a
California limited liability company,

Defendant.

AMERICAN FOOD STORES, LLC, a
California limited liability company,

Counterclaimant,

vs.

RECUPEROS, LLC, an Idaho limited liability
company,

Counterdefendant.

Civil No. 04-229-S-BLW

**MEMORANDUM IN SUPPORT OF
MOTION TO STRIKE APPEARANCES
PRO SE BY SUKHDEV KAPUR AND
MANJIT SAHOTA**

**MEMORANDUM IN SUPPORT OF MOTION TO STRIKE
APPEARANCES PRO SE BY SUKHDEV KAPUR
AND MANJIT SAHOTA - 1**

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I. INTRODUCTION

On May 13, 2004, the plaintiff/counterdefendant, Recuperos, LLC ("Recuperos"), filed the original Complaint in this matter against American Food Stores, LLC, a California limited liability company ("AFS"). On May 23, 2004, Recuperos effected service of process on AFS by personal delivery of a copy of the Summons and Complaint on Sukhdev Kapur, agent for service of process of AFS. On or about June 16, 2004, R. Wade Curtis of the firm Belnap & Curtis, PLLC, appeared on behalf of AFS. On or about August 18, 2004, Mr. Curtis filed Motion to Withdraw as Attorney for Defendant American Food Stores, LLC, and on August 23, 2004, this Court entered its Order granting Mr. Curtis's motion to withdraw as attorney for AFS. Thereafter, on or about September 15, 2004, Mr. Kapur filed his Appearance Pro Se by Sukhdev Kapur. At the top of this pleading is the following description of the party filing this document:

Sukhdev Kapur
Member
American Food Stores, LLC
13249 Paramount Drive
Sarasota, California 95070
Telephone:
Fax Transmission: (408) 527-2477
Defendant / Counter Claimant, American Food Stores, LLC Pro Se

The purported Appearance then recites that "Sukhdev Kapur, Member of the Defendant, American Food Stores, LLC, . . . gives notice to the Court and all parties that Sukhdev Kapur, as a partner in the Defendant, American Foods [sic] Stores, is going to represent American Food Stores, Pro Se in this matter." The document is signed "Sukhdev Kapur, Member Defendant / Counter Claimant Pro Se."

On or about September 15, 2004, Mr. Sahota filed his Appearance Pro Se by Manjit Sahota. At the top of this pleading is the following description of the party filing this document:

Manjit Sahota
Managing Member
American Food Stores, LLC
106 South 1st Street
Johnstowne, Colorado 80534
Telephone: (916) 276-4271
Fax Transmission: (303) 362 6590
Defendant / Counter Claimant, American Food Stores, LLC Pro Se

The purported Appearance then recites that "Manjit Sahota, Managing Member of the Defendant, American Food Stores, LLC, . . . gives notice to the Court and all parties that Manjit Sahota, as a partner in the Defendant, American Foods [sic] Stores, is going to represent American Food Stores, Pro Se in this matter." The document is signed "Manjit Sahota, Managing Member Defendant / Counter Claimant Pro Se."

From the face of the above-described pleadings it is clear that Mr. Kapur and Mr. Sahota have attempted to appear on behalf of the defendant limited liability company. Neither Mr. Kapur nor Mr. Sahota, however, is an attorney licensed to practice law in this state, and neither may represent the defendant in this matter.

II. ARGUMENT

Idaho Code Section 3-420 prohibits the unlawful and unauthorized practice of law. The general rule in this state and other states is that a nonlawyer may not represent another person, *see Kyle v. Beco Corp.*, 109 Idaho 267, 271, 707 P.2d 378, 383 (1985), or an entity, *Weston v. Gritman Memorial Hospital*, 99 Idaho 717, 720, 587 P.2d 1252, 1255 (1978). In *Weston* the director of a hospital association attempted to act as an attorney in defense of a claim.

**MEMORANDUM IN SUPPORT OF MOTION TO STRIKE
APPEARANCES PRO SE BY SUKHDEV KAPUR
AND MANJIT SAHOTA - 3**

In response, the Idaho Supreme Court directed the Idaho State Bar to conduct an investigation and take action against the director. The court declared, "We recognize the inherent right of a natural person to represent himself *pro se*, but this right does not extend to representation of other persons or corporations." *Id.*

The rule that a nonlawyer may not represent an entity holds true even if a nonlawyer is an employee, member of the board, officer, or majority or sole owner of the entity. In *Kyle v. Beco Corp.*, the president and sole shareholder of the defendant corporation attempted to represent that corporation in a legal matter before the Industrial Commission. The court refused the president's request and declared:

We hold that where an entity chooses to incorporate under the laws of this State and to thereby receive the benefits and privileges extended to corporations, it cannot, when convenient, ask the court to ignore its corporate status and extend to it the advantages to which an individual person is commonly entitled.

Id. at 272. Therefore, regardless of Mr. Kapur or Mr. Sahota's relationship to the defendant, neither may represent such entity in this or any other judicial proceeding.

Mr. Kapur and Mr. Sahota's unauthorized practice of law before this Court should not be condoned. The proper remedy is to strike the pleadings entitled "Appearance Pro Se by Sukhdev Kapur" and "Appearance Pro Se by Manjit Sahota" and require the limited liability company to obtain its own legal counsel to represent it in this litigation.

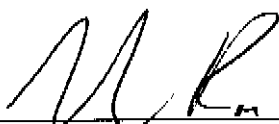
III. CONCLUSION

Based on the foregoing, the plaintiff respectfully requests that the Court enter an order striking the Appearances filed on behalf of AFS. In addition, the plaintiff would request that the Court enter an order enjoining Sukhdev Kapur and Manjit Sahota from: (i) preparing

and filing legal documents on behalf of the defendant; (ii) appearing in Court on behalf of the defendant; and (iii) otherwise engaging in the unlawful practice of law before this Court.

DATED this 20 day of September, 2004.

MOFFATT, THOMAS, BARRETT, ROCK &
FIELDS, CHARTERED

By 
Michael O. Roe – Of the Firm
Attorneys for Plaintiff/Counterdefendant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 20 day of September, 2004, I caused a true and correct copy of the foregoing **MEMORANDUM IN SUPPORT OF MOTION TO STRIKE APPEARANCES PRO SE BY SUKHDEV KAPUR AND MANJIT SAHOTA** to be served by the method indicated below, and addressed to the following:

Robert L. Chortek
BERLINER COHEN
10 Almaden Boulevard, 11th Floor
San Jose, CA 95113-2233
Fax: (408) 998-5388

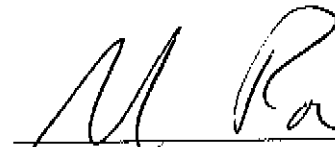
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Michael O. Roe